

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

UNITED STATES OF AMERICA)
) Case No. 1-09-CR-95
v.)
)
MITCHELL CARTER)

O R D E R

Magistrate Judge Susan K. Lee filed a report and recommendation recommending the Court:
(1) grant Defendant's motion to withdraw his not guilty plea to Count One of the sixty-nine-count Indictment (2) accept Defendant's plea of guilty to the lesser included offense of the charge in Count One, that is of conspiracy to manufacture, distribute and possess with intent to distribute fifty (50) grams or more of a mixture and substance containing a detectable amount of methamphetamine in violation of 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(B); (3) adjudicate Defendant guilty of the lesser included offense of the charge in Count One, that is of conspiracy to manufacture, distribute and possess with intent to distribute fifty (50) grams or more of a mixture and substance containing a detectable amount of methamphetamine in violation of 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(B); (4) defer a decision on whether to accept the plea agreement until sentencing; and (5) find Defendant shall remain in custody until sentencing in this matter [Doc. 165]. Neither party filed a timely objection to the report and recommendation. After reviewing the record, the Court agrees with the magistrate judge's report and recommendation. Accordingly, the Court **ACCEPTS** and

ADOPTS the magistrate judge's report and recommendation [Doc. 165] pursuant to 28 U.S.C. § 636(b)(1) and **ORDERS** as follows:

- (1) Defendant's motion to withdraw his not guilty plea to Count One of the Indictment is **GRANTED**;
- (2) Defendant's plea of guilty to the lesser included offense of the charge in Count One, that is of conspiracy to manufacture, distribute and possess with intent to distribute fifty (50) grams or more of a mixture and substance containing a detectable amount of methamphetamine in violation of 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(B) is **ACCEPTED**;
- (3) Defendant is hereby **ADJUDGED** guilty of the lesser included offense of the charge in Count One, that is of conspiracy to manufacture, distribute and possess with intent to distribute fifty (50) grams or more of a mixture and substance containing a detectable amount of methamphetamine in violation of 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(B);
- (4) A decision on whether to accept the plea agreement is **DEFERRED** until sentencing; and
- (5) Defendant **SHALL REMAIN** in custody until sentencing in this matter which is scheduled to take place on **Thursday, January 7, 2010 at 10:00 a.m.** before the Honorable Curtis L. Collier.

SO ORDERED.

ENTER:

/s/
CURTIS L. COLLIER
CHIEF UNITED STATES DISTRICT JUDGE